

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

DAMON LAMAR CAMPBELL,  
)  
)  
Plaintiff,  
)  
)  
vs.  
)  
MANUEL PORTILLO et al.,  
)  
Defendants.  
)

3:11-cv-00532-RCJ-VPC

## ORDER

Plaintiff is a prisoner in the custody of the Nevada Department of Corrections. He sued Defendants in this Court under 42 U.S.C. § 1983 for various civil rights violations. The Court permitted excessive force and deliberate indifference claims under the Eighth Amendment to proceed upon screening and later adopted the Magistrate Judge's report and recommendation to grant summary judgment to Defendants. The Court of Appeals reversed only as to the excessive force claim, which remains for trial. Plaintiff now asks the Court to transfer venue to the unofficial southern division in Las Vegas for the convenience of parties and witnesses under 28 U.S.C. § 1404(a).

The case concerns an incident at High Desert State Prison (“HDSP”) in Indian Springs, which is much closer to Las Vegas than to Reno. Plaintiff was incarcerated at Northern Nevada Correctional Center in Carson City (which is much closer to Reno than to Las Vegas) when he

1 filed the Complaint, however, which is why the case was assigned to the unofficial northern  
2 division in Reno. He has since been transferred back to HDSP. Plaintiff argues that Defendants  
3 were employed at HDSP at the time of the incident and that some of them still reside in southern  
4 Nevada.

5 Defendants respond that Plaintiff was transferred back to the unofficial southern division  
6 (at HDSP) over three years ago in October 2014. In this case, Plaintiff and Defendants constitute  
7 all (or nearly all) of the witnesses. No Defendant desires transfer for convenience's sake, and the  
8 one Defendant who now resides in California would be equally inconvenienced by travel to Las  
9 Vegas or Reno. Plaintiff himself will not be inconvenienced. He has no freedom to be interfered  
10 with, and Defendants disclaim any inconvenience to themselves from the task of transferring  
11 him.

12 Plaintiff replies that Defendants have failed to show that they will be inconvenienced or  
13 prejudiced by trial in Las Vegas. But it is Plaintiff who asks the Court to change the status quo,  
14 and he therefore has the burden of showing that it will be more convenient for Defendants,  
15 himself, and any other witnesses to hold the trial in Las Vegas. *See, e.g., Decker Coal v.*  
16 *Commonwealth Edison Co.*, 805 F.2d 834, 843 (9th Cir. 1986). Defendants disclaim any  
17 inconvenience from trial in Reno. As the Court has noted, Plaintiff will not be meaningfully  
18 inconvenienced by trial in Reno. In either location, he will likely be held in a local county jail  
19 during trial. Plaintiff identifies no other witnesses who would be inconvenienced by a trial in  
20 Reno. Finally, convenience of counsel is irrelevant under § 1404(a). *See, e.g., In re Volkswagen*  
21 *AG*, 371 F.3d 201, 206 (5th Cir. 2004); *Solomon v. Cont'l Am. Life Ins. Co.*, 472 F.2d 1043, 1047  
22 (3rd Cir. 1973) (citing *Chicago, Rock Island & Pac. R.R. Co. v. Igoe*, 220 F.2d 299, 304 (7th  
23 Cir.) (en banc), *cert. denied*, 350 U.S. 822 (1955)).

## CONCLUSION

IT IS HEREBY ORDERED that the Motion to Change Venue (ECF No. 87) is DENIED.

IT IS SO ORDERED.

Dated January 16, 2018.

ROBERT C. JONES  
United States District Judge